

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JESSIHA LANCASTER,

Plaintiff,

v.

HAROLD CLARK, *et al.*

Defendants.

Case No. 07-5251 RJBKLS

ORDER DENYING SECOND  
MOTION FOR APPOINTMENT OF  
COUNSEL

Before the Court is Plaintiff's second motion for appointment of counsel. (Dkt. # 107). Having reviewed the motion, Defendants' response (Dkt. # 108), and balance of the record, the Court finds for the reasons stated below that Plaintiff's motion should be denied.

**I. DISCUSSION**

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

1 On December 10, 2007, immediately after the Court denied his first Motion for  
2 Appointment of Counsel, Plaintiff filed his second Motion for Appointment of Counsel. (Dkt. #  
3 107). Plaintiff has provided no new information that warrants the appointment of counsel. Plaintiff  
4 argues that he requires assistance of counsel because he suffers from mental health disorders that  
5 affect his ability to function on a daily basis. However, Plaintiff has still not demonstrated any  
6 difficulty articulating his claims or expressing the issues in this case, nor has he provided any  
7 information to indicate that he is likely to succeed on the merits.  
8

9 Accordingly, the Court finds that counsel is not necessary in this case and Plaintiff's motion  
10 to appoint counsel (Dkt. # 107) is **DENIED**.

11 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

12 DATED this 24th day of January, 2008.  
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16 Karen L. Strombom  
17 United States Magistrate Judge  
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